

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Dave R. Dehart

Group Art Unit: 2151

Serial No.: 10/659,594

Examiner: Walsh, John

Filed: September 10, 2003

Docket No. 10015846-1

For: **Systems and Methods for Providing Support to A User Regarding Print Quality**

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed January 24, 2008, responding to the Final Office Action mailed September 24, 2007.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 5, 8-13, 15, 16, and 20 have been canceled leaving claims 1-4, 6, 7, 14, 17-19, and 21-23 remaining. Each of those claims stands finally rejected. No claims have been allowed. The final rejections of claims 1-4, 6, 7, 14, 17-19, and 21-23 are appealed.

IV. Status of Amendments

This application was originally filed on September 10, 2003 with twenty-two (22) claims. In a Response filed June 29, 2007, Applicant amended claims 1, 3, 4, 6, 7, 14, 17-19, 21, and 22, canceled claims 5, 8-13, 15, 16, and 20, and added new claim 23.

All of the above-identified amendments have been entered and no other amendments have been made to any of claims 1-4, 6, 7, 14, 17-19, and 21-23. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description (“specification”) and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 1 describes a method for providing print quality support relative to a printing device. The method comprises executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer, the printing device driver comprising a program stored on the computer that is used to control operation of a peripheral device separate from the computer. *Applicant's specification*, page 5, lines 16-25; page 9, lines 5-10; Figure 2, item 216; Figure 4, items 400 and 402. The method of claim 1 further comprises presenting a link to print quality support in the printing device driver user interface on the computer. *Applicant's specification*, page 5, line 25 to page 6, line 6; page 9, lines 12-16; Figure 4, item 404. The method of claim 1 further comprises providing print quality support information to the user in a network browser separate from the printing device driver interface on the computer when the link is selected by the user. *Applicant's specification*, page 9, line 17 to page 10, line 14; Figure 4, item 408; Figure 5.

Independent claim 14 describes a computer (102, Figure 2). The computer comprises a processing device (200, Figure 2). The computer of claim 14 further comprises memory (202, Figure 2) that stores a printing device driver (216, Figure 2) that is used to operate and control a separate printing device (*Applicant's specification*, page 5, lines 16-25); a printing device driver user interface configured to support interaction between a user and the printing device driver (*Applicant's specification*, page 7, line 19 to page 8, line 2); and logic (218, Figure 2) associated with the printing device driver user interface that is configured to enable provision to the user of information regarding print quality issues retrieved from a network (*Applicant's specification*, page 5, line 25 to page 6, line 6; page 9, lines 12-16; Figure 4, item 404).

Independent claim 19 describes a computer-readable memory that stores a printing device driver (216, Figure 2) that is used to control operation of a printing device from a separate computer. *Applicant's specification*, page 5, lines 16-25. The driver comprises a printing device driver interface configured for presentation in a display of the computer (*Applicant's specification*, page 7, line 19 to page 8, line 2), the interface comprising a link (218, Figure 2) to print quality support information hosted by a server remote to both the printing device and the computer, wherein when the link is selected by a user on the separate computer, the print quality support information is presented within a network browser that executes on the computer. *Applicant's specification*, page 9, line 17 to page 10, line 14; Figure 4, item 408; Figure 5.

Independent claim 23 describes a system (100, Figure 1). The system comprises a printing device (104, Figure 1) and a computer (102, Figure 1) in communication with the printing device. The computer comprises a printing device

driver (216, Figure 2) configured to operate and control the printing device and a printing device driver user interface configured to support interaction between a user and the printing device driver (*Applicant's specification*, page 7, line 19 to page 8, line 2), wherein the printing device driver is configured to present links (218, Figure 2) to print quality support information regarding the printing device (*Applicant's specification*, page 5, line 25 to page 6, line 6; page 9, lines 12-16; Figure 4, item 404), the print quality support information being contained in one or more web pages that can be displayed in a network browser of the computer that is separate from the printing device driver and its user interface. *Applicant's specification*, page 9, line 17 to page 10, line 14; Figure 4, item 408; Figure 5.

VI. *Grounds of Rejection to be Reviewed on Appeal*

The following grounds of rejection are to be reviewed on appeal:

1. Claim 23 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.
2. Claims 1-4, 6, 7, 14, 17-19, and 21-23 have been rejected under 35 U.S.C. §102(b) as being anticipated *Venkatraman, et al.* ("Venkatraman," U.S. Pat. No. 5,956,487).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are not indefinite under 35 U.S.C. § 112 or anticipated under 35 U.S.C. § 102, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

A. Claim Rejection - 35 U.S.C. § 112, Second Paragraph

Claim 23 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, it is argued in the final Office Action that the phrase "of the computer that is separate from the printing device driver and its user interface" is indefinite. In response, Applicant notes that the Examiner has passed judgment of only a portion of the complete limitation contained in claim 23. The complete limitation provides as follows:

the print quality support information being contained in one or more web pages that can be displayed in a network browser of the computer that is separate from the printing device driver and its user interface.

From the above, it is clear that the limitation describes web pages that can be displayed *in a network browser that is separate from the printing device driver and its user interface*. Therefore the term "separate" modifies the term "network browser", not the term "computer". Accordingly, the limitation is both clear and consistent with Applicant's original disclosure.

In view of the above, it is respectfully submitted that claim 23 defines the invention in the manner required by 35 U.S.C. § 112. Accordingly, Applicant respectfully requests that the rejection be reversed.

B. Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-4, 6, 7, 14, 17-19, and 21-23 have been rejected under 35 U.S.C. § 102(b) as being anticipated *Venkatraman, et al.* ("Venkatraman," U.S. Pat. No. 5,956,487). Applicant respectfully traverses.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the Venkatraman reference. Applicant discusses the Venkatraman reference and Applicant's claims in the following.

1. The Venkatraman Disclosure

Venkatraman discloses embedding a web access mechanism in an appliance or “device” 10. *Venkatraman*, Patent Title, column 3, lines 51-61. As summarized by Venkatraman:

A solution for providing widely accessible, low cost, and enhanced user interface functions for a device is disclosed. The solution involves embedding web access functionality into the device including a web server that provides a device web page. The device includes an embedded network interface that enables access to the device web page by a web browser. A user of the web browser accesses the user interface functions for the device through the device web page. The web server functionality may be implemented with existing circuitry in a device, such as an exiting processor, memory, and input/output circuitry that normally perform device-specific functions, thereby avoiding the extra cost and space required for dedicated web server hardware for the device.

Venkatraman, column 2, lines 13-26.

Venkatraman further discloses that the device 10 can comprise a printer (*Venkatraman*, column 3, lines 51-52) and that the web browser 40 executes on a separate “computer system” (*Venkatraman*, column 5, lines 51-52). Therefore, to summarize, Venkatraman can be said to disclose a printer having an embedded web server that serves web pages over a network to a computer. The web pages are then used to “access the user interface functions” of the printer. See *Venkatraman*, column 5, lines 29-31. Therefore, Venkatraman describes accessing a printer’s user interface using the web pages and not use of a “driver” program that resides on the Venkatraman’s computer.

2. Applicant's Claims

As is noted above, Venkatraman fails to teach several of Applicant's claim limitations. Applicant discusses some of those claim limitations in the following.

a. Claims 1-4, 6, and 6

Applicant's independent claim 1 provides as follows:

1. A method for providing print quality support relative to a printing device, the method comprising:

executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer, the printing device driver comprising a program stored on the computer that is used to control operation of a peripheral device separate from the computer;

presenting a link to print quality support in the printing device driver user interface on the computer; and

providing print quality support information to the user in a network browser separate from the printing device driver interface on the computer when the link is selected by the user.

(i) Executing a Printing Device Driver on a Computer

As a first matter regarding claim 1, Applicant notes that Venkatraman clearly does not teach "executing a printing device driver on a computer". Instead, as described above, Venkatraman discloses a system in which a device 10, such as a printer, serves to a web pages to a computer that can be used to access functions of the device.

In the final Office Action, the Examiner alleged that Venkatraman teaches "executing a printing device driver on a computer" in column 7, line 21 and column 3,

line 14. This is not true. Regarding line 21 of column 7 of the Venkatraman reference, Venkatraman only states that a web page 18 served by the device 10 can include hyperlinks that reference “updated software driver routines”. *Venkatraman*, column 7, lines 15-22. A disclosure of a web page that references drivers is *not* a teaching of “executing” a driver on a “computer”. Regarding column 3, line 14, Venkatraman merely identifies a “client” that can receive the web pages served by the device 10. Therefore, that excerpt also does not discuss “executing” a “driver” on a “computer”.

As a further matter, Applicant notes that, as appears to be admitted by the Examiner in his separate identification of “software driver routines” available for download, a “device driver” is not equivalent to a web browser that downloads pages served by a device, such as Venkatraman’s printer. Instead, the term “device driver” has a well-established, plain and ordinary meaning in the art that refers to a program on a computer that translates between a program on the computer and a separate device. Therefore, a driver accepts generic commands from a program on the computer and translates them into specialized commands for the device. A web browser, on the other hand, is simply a program that enables web pages to be downloaded for viewing and manipulation on a separate computer. Accordingly, a person having ordinary skill in the art clearly would not consider Venkatraman’s “web browser” to comprise a “driver” program. Moreover, Applicant notes that the above plain and ordinary meaning of the term “device driver” is consistent with Applicant’s own specification, which must be considered when interpreting the claim limitations. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 34 USPQ2d 1321 (Fed. Cir. 1995)(*in banc*), *aff’d*, 517 U.S. 370, 38 USPQ2d 1461 (1996) (“Claims

must be read in view of the specification, of which they are a part"). Specifically, Applicant states that the device driver 216:

comprises a program that is used to control and operate a peripheral device. The drivers 216 comprise code that acts in the capacity of translators between programs that execute on the user computer 102 (e.g., user applications 212) and the peripheral device for which the driver is designed. The drivers 216 therefore accept generic commands from a program, and then translate the commands into specialized commands for the peripheral device.

Applicant's specification, page 5, lines 16-21.

(ii) Printing Device Driver Program Stored on the Computer

Venkatraman also does not teach a printing device driver "comprising a program stored on the computer that is used to control operation of a peripheral device separate from the computer". Simply stated, Venkatraman does not describe a computer or computer system that stores a driver program that is used to control the device 10.

Applicant notes that the Examiner failed to explicitly identify a portion of the Venkatraman disclosure that teaches that limitation during prosecution of the instant application. For at least that reason, the Examiner should have either withdrawn the rejection or issued a new Office Action that included a citation to the Venkatraman disclosure in support of the rejection. Instead, the Examiner addressed the limitation for the first time in the Advisory Action, in which the Examiner stated "[a] computer that stores a driver that is used to operate and control a separate printing device is disclosed at least at col. 5, lines 60-64, col. 7, lines 30-35 and figure 2." Applicant disagrees.

Regarding the Examiner's identification of column 5, lines 60-64, Venkatraman discloses the following:

The web browser 40 may also be embodied in a variety of other devices that provide HTTP client functions and that render HTML files. Such devices include specialized hardware designed for television or telephone systems as well as low cost web browser devices and network computers.

Venkatraman, column 5, lines 50-64. As can be readily appreciated from the above excerpt, Venkatraman says nothing whatsoever about a computer having a printing device driver program. Instead, Vankatraman merely indicates that a web browser (and not a printing device driver) can be embodied in a variety of devices beyond computer systems.

Regarding the Examiner's identification of column 7, lines 30-35, Venkatraman discloses the following:

Any one or more of a set of computer systems 90-92 coupled to the large organization network 80 may access the device web pages of the devices 10 and 50-52. The computer systems 90-92 may execute one or more of a variety of available web browser software or may have web browser functions built in.

Venkatraman, column 7, lines 30-35. As can be readily appreciated from that excerpt, Venkatraman again says nothing whatsoever about a computer having a printing device driver program. Instead, Venkatraman merely states that computer systems can access web pages of the device 10 with a browser.

Finally, regarding the Examiner's identification of Figure 2 of the Venkatraman reference, Figure 2 is a block diagram of the "device 10," i.e., a printer, not a computer. Moreover, there is no driver identified in the figure.

In view of the above, it is clear that Venkatraman does not in fact teach a "printing device driver comprising a program stored on the computer".

(iii) Presenting a Link to Support in the Printing Device Driver User Interface

Venkatraman further does not teach presenting a link to print quality support "in the printing device driver user interface". Although Venkatraman may be said to generally teach presenting a link in a user interface served by the device 10, such a link is not provided in "the printing device driver user interface", i.e., an interface supported by the previously recited "driver" that executes and is stored "on the computer". Again, Venkatraman discloses no such driver. Instead, Venkatraman's computer system computer system is only described as receiving web pages in a web browser 40.

(iv) Dependent Claims

Applicant notes that the claims that depend from claim 1 are not anticipated by Venkatraman for the same reasons that claim 1 is not anticipated by Venkatraman. In addition, several of the dependent claims include further limitations that are not anticipated by Venkatraman. Applicant discusses some of those claims in the following.

Regarding dependent claim 4, Venkatraman does not in fact teach "presenting a link in association with a color tab of the printing device user interface". As a first

matter, Venkatraman does not even discuss device driver user interfaces. Instead, Venkatraman's disclosure is focused on web pages served by a printer to a computer browser. As a second matter, Venkatraman says nothing whatsoever about a "color tab" of such an interface. Although Applicant uses the term "color tab" to identify an interface tab that pertains to the color of printed documents, Venkatraman also fails to literally disclose a "color tab" as argued by the Examiner. Specifically, Venkatraman's reference to "user-friendly interfaces" does not comprise a teaching of a "color tab".

Regarding dependent claim 7, Venkatraman does not in fact teach "presenting information regarding at least one of proper printing device operation and troubleshooting tips." Simply stated, Venkatraman says nothing of the proper way to operate the device or troubleshooting tips. Column 5, lines 12-13 of the Venkatraman reference, cited by the Examiner, only describe accessing "status information." Column 7, line 7, also cited by the Examiner, only describes "printer support functions," which Venkatraman describes as information about "printer service contracts," not trouble shooting tips. See *Venkatraman*, column 7, lines 5-14. Finally, column 7, line 16, cited by the Examiner, only describes features of the printer's web page, not information that is accessed with a "link to print quality support" (see claim 1 from which claim 7 depends).

(v) Conclusion

From the above, it can be appreciated that Venkatraman at least fails to teach multiple limitations of independent claim 1. This is due, at least in part, to the simple fact that unlike Applicant, Venkatraman does not contemplate a printing device driver

program that executes on a computer that includes a network link to print quality support. It is therefore respectfully submitted that claim 1 and its dependents are clearly not anticipated by the Venkatraman reference.

b. Claims 14, 17, and 18

Applicant's independent claim 14 provides as follows:

14. A computer comprising:
a processing device; and
memory that stores a printing device driver that is used to operate and control a separate printing device; a printing device driver user interface configured to support interaction between a user and the printing device driver; and logic associated with the printing device driver user interface that is configured to enable provision to the user of information regarding print quality issues retrieved from a network.

Regarding claim 14, Venkatraman does not teach "a computer" that "stores a printing device driver that is used to operate and control a separate printing device" at least for reasons described above in relation to claim 1. Again, Venkatraman does not describe a device driver that is stored on a computer. Instead, in Venkatraman's system, interface pages that are used to access the functions of a device 10 are served to a computer system using an embedded server of the device.

For similar reasons, Venkatraman does not teach "a computer" that "stores" a "printing device driver user interface" configured to support interaction between a user and the printing device driver. Again, Venkatraman discloses no device driver that is stored on a computer.

In addition, Venkatraman does not teach “logic associated with the printing device driver user interface that is configured to enable provision to the user of information regarding print quality issues retrieved from a network”. Although Venkatraman’s device 10 may be said to comprise logic configured to provide a user interface, Venkatraman’s computer system clearly is not described as comprising a device driver user interface.

For at least the above reasons, it is respectfully submitted that claim 14 and its dependents are allowable over the Venkatraman reference.

c. Claim 19

Applicant's independent claim 19 provides as follows:

19. A computer-readable memory that stores a printing device driver that is used to control operation of a printing device from a separate computer, the driver comprising:

a printing device driver interface configured for presentation in a display of the computer, the interface comprising a link to print quality support information hosted by a server remote to both the printing device and the computer, wherein when the link is selected by a user on the separate computer, the print quality support information is presented within a network browser that executes on the computer.

Regarding claim 19, Venkatraman does not teach “printing device driver” as specified in the preamble of the claim for reasons described above. In addition, Venkatraman fails to describe a printing device driver that comprises “a printing device driver interface configured for presentation in a display of the computer”. Again,

Venkatraman only describes web pages served by a printer to a computer web browser. Applicant further notes that the computer web browser does not comprise the claimed "printing device driver interface" given that the claim separately refers to a "network browser that executes on the computer".

For at least the above reasons, it is respectfully submitted that claim 19 and its dependents are allowable over the Venkatraman reference.

With particular regard to dependent claim 21, Applicant further notes that Venkatraman does not teach a link "associated with a color tab presented in the printing device user interface" for at least the same reasons as those described in relation to claim 4.

With particular regard to dependent claim 22, Applicant further notes that Venkatraman does not teach print quality support information that regards "at least one of the proper operation of the printing device and how to troubleshoot print quality problems" for at least the same reasons as those described in relation to claim 7.

d. Claim 23

Applicant's independent claim 23 provides as follows:

23. A system comprising:
a printing device; and
a computer in communication with the printing device, the computer comprising a printing device driver configured to operate and control the printing device and a printing device driver user interface configured to support interaction between a user and the printing device driver, wherein the printing device driver is configured to present links to print quality

support information regarding the printing device, the print quality support information being contained in one or more web pages that can be displayed in a network browser of the computer that is separate from the printing device driver and its user interface.

Regarding claim 23, Venkatraman does not teach “a computer” in communication with a printing device, the computer comprising “a printing device driver configured to operate and control the printing device” at least for reasons described above.

In addition, Venkatraman does not teach “a computer” comprising “a printing device driver user interface configured to support interaction between a user and the printing device driver” also for reasons described above.

Given that Venkatraman does not teach a computer comprising a resident device driver, it logically follows that Venkatraman does not teach “wherein the printing device driver is configured to present links to print quality support information regarding the printing device, the print quality support information being contained in one or more web pages that can be displayed in a network browser of the computer that is separate from the printing device driver and its user interface”.

For at least the above reasons, it is respectfully submitted that claim 23 is allowable over the Venkatraman reference.

VIII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

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Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1. A method for providing print quality support relative to a printing device, the method comprising:

executing a printing device driver on a computer so as to present a printing device driver user interface to a user on the computer, the printing device driver comprising a program stored on the computer that is used to control operation of a peripheral device separate from the computer;

presenting a link to print quality support in the printing device driver user interface on the computer; and

providing print quality support information to the user in a network browser separate from the printing device driver interface on the computer when the link is selected by the user.

2. The method of claim 1, wherein presenting a link comprises presenting a hyperlink to a network file.

3. The method of claim 2, wherein presenting a hyperlink to a network file comprises presenting a hyperlink to at least one of a web document, a web site, and a web page hosted by a server remote to both the computer and the printing device.

4. The method of claim 1, wherein presenting a link comprises presenting a link in association with a color tab of the printing device driver user interface.

5. (Canceled)

6. The method of claim 1, wherein providing print quality support information comprises providing print quality support information retrieved from a web server by an Internet browser of the computer via the Internet.

7. The method of claim 1, wherein providing print quality support information comprises presenting information regarding at least one of proper printing device operation and troubleshooting tips.

8-13. (Canceled)

14. A computer comprising:
a processing device; and
memory that stores a printing device driver that is used to operate and control a separate printing device; a printing device driver user interface configured to support interaction between a user and the printing device driver; and logic associated with the printing device driver user interface that is configured to enable provision to the user of information regarding print quality issues retrieved from a network.

15-16. (Canceled)

17. The computer of claim 14, wherein the logic configured to enable provision of information comprises a hyperlink to a network file.

18. The computer of claim 17, wherein the logic configured to enable provision of information is configured to provide the information in a network browser that executes on the computer.

19. A computer-readable memory that stores a printing device driver that is used to control operation of a printing device from a separate computer, the driver comprising:

a printing device driver interface configured for presentation in a display of the computer, the interface comprising a link to print quality support information hosted by a server remote to both the printing device and the computer, wherein when the link is

selected by a user on the separate computer, the print quality support information is presented within a network browser that executes on the computer.

20. (Cancelled)

21. The device driver of claim 19, wherein the link is associated with a color tab presented in the printing device user interface.

22. The device driver of claim 19, wherein the print quality support information regards at least one of the proper operation of the printing device and how to troubleshoot print quality problems.

23. A system comprising:

a printing device; and

a computer in communication with the printing device, the computer comprising a printing device driver configured to operate and control the printing device and a printing device driver user interface configured to support interaction between a user and the printing device driver, wherein the printing device driver is configured to present links to print quality support information regarding the printing device, the print quality support information being contained in one or more web pages that can be displayed in a network browser of the computer that is separate from the printing device driver and its user interface.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.